

§ 1700.7

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Tapes (mainframe cartridge)	Each	9.00
Tapes (mainframe reel)	Each	20.00
Tapes (PC 9mm)	Each	25.00
Diskette (3.5")	Each	4.00
CD (bulk recorded)	Each	10.00
CD (recordable)	Each	20.00
Telecommunications	Per minute50
Paper (mainframe printer)	Per page10
Paper (PC b&w laser printer)	Per page10
Paper (PC color printer)	Per page	1.00

Paper Production

Photocopy (standard or legal)	Per page10
Microfiche	Per frame20
Pre-printed (if available)	Per 100 pages	5.00
Published (if available)	Per item	NTIS

(2) *Application of schedule.* Personnel search time includes time expended in manual paper records searches, indices searches, review of computer search results for relevance, and personal computer system searches. In any event where the actual cost to ODNI of a particular item is less than the above schedule (e.g., a large production run of a document resulting in a cost less than \$5.00 per hundred pages), then the actual lesser cost will be charged.

(3) *Other services.* For all other types of output, production, or reproduction (e.g., photographs, maps, or published reports), ODNI will charge actual cost or amounts authorized by statute. Determinations of actual cost shall include the commercial cost of the media, the personnel time expended in making the item to be released, and an allocated cost of the equipment used in making the item, or, if the production is effected by a commercial service, then that charge shall be deemed the actual cost for purposes of this regulation.

(h) *Limitations on collection of fees—(1) In general.* No fees will be charged if the cost of collecting the fee is equal to or greater than the fee itself. That cost includes the administrative costs to ODNI of billing, receiving, recording, and processing the fee for deposit to the Treasury Department and, as of the date of these regulations, is deemed to be \$10.00.

(i) *Fee categories.* There are four categories of FOIA requesters for fee purposes: Commercial use requesters, edu-

cational and non-commercial scientific institution requesters, representatives of the news media requesters, and all other requesters. The categories are defined in §1700.2 and applicable fees will be assessed as follows:

(1) Commercial use requesters: Charges which recover the full direct costs of searching for, reviewing, and duplicating responsive records (if any);

(2) Educational and non-commercial scientific institution requesters, and representatives of the news media requesters: Only charges for reproduction beyond the first 100 pages;

(3) All other requesters: Charges which recover the full direct cost of searching for and reproducing responsive records (if any) beyond the first 100 pages of reproduction and the first two hours of search time which will be furnished without charge.

(j) *Associated requests.* If it appears a requester or a group of requesters acting in concert have requested portions of an apparently unitary request for the purpose of avoiding the assessment of fees, ODNI may aggregate any such requests and charge accordingly. Requests from multiple requesters will not be aggregated without clear evidence. ODNI will not aggregate multiple unrelated requests.

§1700.7 Processing of requests for records.

(a) *In general.* Requests meeting the requirements of §1700.3 through §1700.6 shall be accepted as formal requests and processed under the FOIA and this

Part. A request will not be considered received until it reaches the IMO. Ordinarily upon its receipt a request will be date-stamped as received. It is this date that establishes when your request is received for administrative purposes, not any earlier date such as the date of the letter or its postmark date. For the quickest possible handling, both the request letter and the envelope should be marked "Freedom of Information Act Request."

(b) *Electronic Reading Room.* ODNI maintains an online FOIA Reading Room on the ODNI Web site which contains the information that the FOIA requires be routinely made available for public inspection and copying as well as other information determined to be of general public interest.

(c) *Confirming the existence of certain documents.* In processing a request, ODNI shall decline to confirm or deny the existence of responsive records whenever the fact of their existence or nonexistence is itself classified under Executive Order 12,958 and its amending orders, reveals intelligence sources and methods protected pursuant to 50 U.S.C. 403-1(i)(1), or would be an invasion of the personal privacy of third parties. In such circumstances, ODNI, in its final written response, shall so inform the requester and advise of his or her right to file an administrative appeal.

(d) *Time for response.* Whenever the statutory time limits for processing a request cannot be met because of "unusual circumstances," as defined in the FOIA, and the component determines to extend the time limits on that basis, ODNI will inform the requester in writing and advise the requester of the right to narrow the scope of his or her request or agree to an alternative timeframe for processing.

(e) *Multitrack processing.* ODNI may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, including through limits based on the number of pages involved. ODNI may provide requesters in its slower track with an opportunity to limit the scope of their requests in order to qualify for faster processing

within the specified limits of its faster track.

§ 1700.8 Action on the request.

(a) *Initial action for access.* ODNI staff identified to search for records pursuant to a FOIA request shall search all relevant record systems within their cognizance as of the date the search is commenced. A staff member tasked to conduct a search shall:

(1) Determine whether records exist;

(2) Determine whether and to what extent any FOIA exemptions apply;

(3) Make recommendations for withholding records or portions of records that originated in the staff member's organization and for which there is a legal basis for denial or make a recommendation in accordance with § 1700.7(c). In making recommendations, ODNI staff shall be guided by the procedures specified in § 1700.10 regarding confidential commercial information and § 1700.11 regarding third party information; and

(4) Forward to the Director, IMO, all records responsive to the request.

(b) *Referrals and consultations.* ODNI records containing information originated by other ODNI components shall be forwarded to those entities for action in accordance with paragraph (a) of this section and returned. Records originated by other federal agencies or ODNI records containing other federal agency information shall be forwarded to such agencies for processing and direct response to the requester or for consultation and return to the ODNI. ODNI will notify the requester if it makes a referral for direct response.

(c) *Release of information.* When the Director, IMO (or Appeals Authority) makes a final determination to release records, the records will be forwarded to the requester in an appropriate format promptly upon compliance with any preliminary procedural requirements, including payment of fees. If any portion of a record is withheld initially or upon appeal, the Director, IMO (or Appeals Authority) will provide a written response that shall include, at a minimum:

(1) The basis for the withholding, citing the specific statutory exemption or exemptions invoked under the FOIA with respect to each portion withheld,